IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

CRL.A.No. 370 of 2003()

S.C.NO.14/1999 OF THE ADDL.DISTRICT AND SESSIONS JUDGE (AD HOC), COURT-I PATHANAMTHITTA.

APPELLANT: ACCUSED

VIJAYAN S/O. GOPALAN, PUTHENVILAYIL HOUSE, PAYYANAMON MURI, KONITHAZHAM VILLAGE, KOZHENMCHERRY TALUK

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CRL.M.P.NO.2074/2003 IN CRL.A.NO.370/2003

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

06/11/2007

ORDER ON CRL.M.P.NO.2934/2003 IN CRL.A.NO.370/2003

CLOSED.

SD/- K.R.UDAYABHANU, JUDGE

06/11/2007

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K.R.UDAYABHANU, J.

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Crl.A.No.370 of 2003-A

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Dated this the 6th day of November, 2007

J U D G M E N T

The appellant is the accused in S.C.No.14/1999 with respect to the offence under Section 55(a) of the Abkari Act and stands convicted therein and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,00,000/- and in default to undergo simple imprisonment for six months.

2. The prosecution case is that on 10/07/2007 at about 5.45 p.m the accused was found in possession of 2.5 litres of liquor in a plastic container and the same was detected by the Assistant Excise Inspector and party.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 4, Exts.P1 to P5 and MO.1. Defence examined DW.1.

4. The counsel for the appellant has only sought for modification of sentence. It is pointed out that more than ten years have elapsed since the date of the incident and commencement of the proceedings and that the quantity involved was only 2.5 litres and that the family of the appellant is entirely dependent on the income of the appellant for their livelihood. In the circumstances, the conviction is confirmed and sentence is modified to imprisonment already undergone (he has undergone pretrial detention for about one month) and to pay a fine fine rupees one lakh and in default to undergo simple imprisonment for six months. The appellant is granted three months time to remit the fine amount. The criminal appeal is disposed of as above.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.A.No.370 of 2003-A

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J U D G M E N T

6th November, 2007